

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BIOVAIL LABORATORIES INTERNATIONAL SRL)	
a corporation of Barbados,)	
)	
Plaintiff,)	C.A. Nos. 05-586 (KAJ)
)	05-730 (KAJ)
v.)	06-620 (KAJ)
)	(CONSOLIDATED)
ANDRX PHARMACEUTICALS, LLC and)	
ANDRX CORPORATION,)	
)	
Defendants.)	
)	

**BIOVAIL’S REPLY TO THE COUNTERCLAIMS OF
ANDRX PHARMACEUTICALS, LLC AND ANDRX CORPORATION**

Plaintiff Biovail Laboratories International SRL (“Biovail”) replies to the October 12, 2006 Counterclaims of Defendants Andrx Pharmaceuticals, LLC and Andrx Corporation (collectively “Andrx”) in C.A. No. 06-620 (KAJ). The paragraph numbers used here conform to those used by Andrx in its October 12, 2006 “Answer, Defenses and Counterclaims.”

To the extent any of paragraphs 1-18 of Andrx’s Answer are determined in whole or in part to state counterclaims or the basis for counterclaims, Biovail incorporates by reference paragraphs 1-18 of its Complaint, and denies each and every additional averment contrary to the averments in Biovail’s Complaint contained in Biovail’s paragraphs 1-18.

To the extent any of paragraphs 19-22 of Andrx’s denials and affirmative defenses are determined to state counterclaims, each and every one of the averments therein is denied, except to the extent admitted in Biovail’s responses to paragraphs 23-33 below.

DEFENDANTS' COUNTERCLAIMS

23. Biovail admits that Andrx purports to assert jurisdiction under various sections of Title 28 of the United States Code and Rule 13 of the Federal Rules of Civil Procedure. Biovail states that there is now a justiciable controversy between Biovail and Andrx concerning the infringement of United States Patent No. 7,108,866. Except as admitted, Biovail denies the allegations of paragraph 23 of the Counterclaims.

FIRST COUNTERCLAIM

24. Biovail denies the averments of paragraph 24 of the Counterclaims to the extent that they incorporate the averments of paragraphs 19-23, and incorporates by reference its response to paragraph 23.

25. Biovail denies the averments of paragraph 25 of the Counterclaims.

SECOND COUNTERCLAIM

26. Biovail denies the averments of paragraph 26 of the Counterclaims to the extent that they incorporate the averments of paragraphs 19-23, and incorporates by reference its response to paragraph 23.

27. Biovail denies the averments of paragraph 27 of the Counterclaims.

THIRD COUNTERCLAIM

28. Biovail denies the averments of paragraph 28 of the Counterclaims to the extent that they incorporate the averments of paragraphs 19-23, and incorporates by reference its response to paragraph 23.

29. Biovail denies the averments of paragraph 29 of the Counterclaims.

FOURTH COUNTERCLAIM

30. Biovail denies the averments of paragraph 30 of the Counterclaims to the extent that they incorporate the averments of paragraphs 19-23, and incorporates by reference its response to paragraph 23.

31. Biovail denies the averments of paragraph 31 of the Counterclaims.

FIFTH COUNTERCLAIM

32. Biovail denies the averments of paragraph 32 of the Counterclaims to the extent that they incorporate the averments of paragraphs 19-23, and incorporates by reference its response to paragraph 23.

33. Biovail denies the averments of paragraph 33 of the Counterclaims.

WHEREFORE, Biovail respectfully requests that:

- a. This Court dismiss the Counterclaims and adjudge that Andrx is not entitled to the relief sought, or any other relief, on its First, Second, Third, Fourth, or Fifth Counterclaims.
- b. This Court award Biovail the relief prayed for in its Complaint.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Jack B. Blumenfeld

Jack B. Blumenfeld (#1014)

Karen Jacobs Loudon (#2881)

1201 N. Market Street

P.O. Box 1347

Wilmington, DE 19899-1347

(302) 658-9200

jblumenfeld@mnat.com

Attorneys for Plaintiff

Biovail Laboratories International SRL

OF COUNSEL:

Joseph M. O'Malley, Jr.
PAUL, HASTINGS, JANOFSKY & WALKER LLP
Park Avenue Tower
75 E. 55th Street, First Floor
New York, NY 10022
(212) 318-6000

November 1, 2006
543987

CERTIFICATE OF SERVICE

I, Jack B. Blumenfeld, hereby certify that on November 1, 2006, I electronically filed the foregoing with the Clerk of the Court using CM/ECF, which will send notification of such filing(s) to the following:

Richard L. Horwitz
POTTER ANDERSON & CORROON LLP

and that I caused copies to be served upon the following in the manner indicated:

BY HAND AND E-MAIL

Richard L. Horwitz
POTTER ANDERSON & CORROON LLP
1313 North Market Street
P.O. Box 951
Wilmington, DE 19899-0951
rhorwitz@potteranderson.com

BY E-MAIL

Steven A. Maddox
FOLEY & LARDNER LLP
3000 K Street, N.W.
Suite 500
Washington, DC 20007
smaddox@foley.com

/s/ Jack B. Blumenfeld
Jack B. Blumenfeld (#1014)
jblumenfeld@mnat.com